**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.M.JOSEPH**

**MONDAY, THE 11TH DECEMBER 2006 / 20TH AGRAHAYANA 1928**

**WP(C).No. 28060 of 2006(M)**
**----------**

**PETITIONER:**
**----------**

**MERAN JOSEPH,**
**U.P.SCHOOL ASSISTANT,**
**ST.MARY'S HIGHER SECONDARY SCHOOL, PATTOM,**
**THIRUVANANTHAPURAM.**

**BY ADV. SRI.LAL GEORGE**

**RESPONDENTS:**
**----------**

**1. STATE OF KERALA,**
**REPRESENTED BY ITS SECRETARY TO GOVERNMENT,**
**GENERAL EDUCATION (A) DEPARTMENT,**
**GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

**2. DIRECTOR OF PUBLIC INSTRUCTION,**
**THIRUVANANTHAPURAM.**

**3. DISTRICT EDUCATION OFFICER,**
**MAVELIKKARA, ALLEPPEY DESTRICT.**

**4. DISTRICT EDUCATION OFFICER,**
**THIRUVANANTHAPURAM.**

**5. HEADMISTRESS,**
**ST.MARY'S HIGHER SECONDARY SCHOOL,**
**PATTOM, THIRUVANANTHAPURAM.**

**6. CORPORATE MANAGER,**
**MALANKARA SYRIAN CATHOLIC SCHOOLS,**
**PATTOM, THIRUVANANTHAPURAM.**

**R1 TO R4 BY GOVT. PLEADER (SHRI T.T. MUHAMMED)**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**APPENDIX IN W.P.(C). NO. 28060 OF 2006 M**

**PETITIONER'S EXHIBITS:**

**EXT.P1 TRUE PHOTO COPY OF THE PROCEEDINGS, ORDER NO.B3/3764/2005/K.DIS. DATED 13.6.2005.**

**EXT.P2 TRUE PHOTO COPY OF THE APPOINTMENT ORDER NO. 737/05 DATED 26.5.2005.**

**EXT.P3 TRUE PHOTOCOPY OF THE APPOINTMENT ORDER NO.475/06 DATED 30.5.2006.**

**EXT.P4 TRUE PHOTO COPY OF THE REPRESENTATION DATED 2.12.2005.**

**EXT.P5 TRUE PHOTO COPY OF THE LETTER DATED 11.10.2006.**

**EXT.P6 TRUE PHOTOCOPY OF THE REPRESENTATION DATED 16.10.2006.**

**EXT.P7 TRUE PHOTOCOPY OF THE GOVERNMENT ORDER GO(P) NO.169/2004/G. EDN. DATED 15.6.2004.**

**EXT.P8 TRUE PHOTOCOPY OF THE CIRCULAR NO.H2/91954/2004 DATED 31.3.2005.**

**EXT.P9 TRUE PHOTOCOPY OF THE AMENDMENT MADE TO RULE 7A OF CHAPTER XIV A KER.**

**EXT.P10 TRUE PHOTOCOPY OF THE JUDGMENT IN W.P.(C). NO.32706/05 DATED 27.7.2006.**

**// TRUE COPY//**

**PS TO JUDGE**

**K. M. JOSEPH, J.**

---

**W.P.C. NO. 28060 OF 2006 M**

---

**Dated this the 11th December, 2006**

**JUDGMENT**

Case of petitioner, in brief, is as follows:

She was appointed as HSA in a leave vacancy, from 2.12.2004. The appointment was approved by Ext.P1. The date of birth of petitioner is 16.5.1965. Later, a vacancy of UPSA arose and petitioner was appointed against the same for the period from 1.6.2005 to 5.6.2006. Thereafter, a regular vacancy of UPSA arose on 1.6.2006 in a School under the same management. Petitioner came to be appointed against the same. In the meantime, petitioner was served with Ext.P5 wherein it is stated that the petitioner is overaged and, therefore, the appointment of petitioner against the vacancy of UPSA on 1.6.2005 is rejected. It is also stated that for the very same reason, the appointment of petitioner as UPSA from 5.6.2006 is also not liable to be approved. Her appointment, therefore, was terminated with immediate effect. Petitioner preferred Ext.P6

before the Government. She relies on Ext.P10 Judgment also. Heard the learned Government Pleader also. The Writ Petition is disposed of directing the first respondent to consider and take a decision on Ext.P6 in accordance with law, after hearing petitioner, sixth respondent and any other affected party, within a period of two months from the date of receipt of a copy of this Judgment. The interim order passed by this Court will continue till a decision is taken. First respondent will take into consideration Ext.P10 Judgment also, when he takes a decision in the matter. Petitioner will produce a copy of Ext.P10 Judgment before the first respondent.

**K. M. JOSEPH, JUDGE**

kbk